

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE T. RAJA

TR.CMP.No.996 of 2019

and C.M.P.No.26575 of 2019

R.Sathyannarayanan,

...Petitioner

Vs

A.J.Dhivya

...Respondent

Prayer: Transfer Civil Miscellaneous Petition under Section 24 (2) of C.P.C., to withdraw the HMOP.No.178/2019 on the file of the learned Additional Sub Court, Kumbakonam and transfer the same to any other Family Court at Chennai.

For Appellant : Mr.C.Samivel
For Respondent : Mr.A.Muthu Kumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner to withdraw the HMOP.No.178/2019 on the file of the learned Additional Sub Court, Kumbakonam and transfer the same to any other Family Court at Chennai.

2.Heard both sides.

3.The learned counsel appearing for the petitioner pleaded that the marriage was solemnized between the petitioner and respondent on 28.06.2017 at K.R.G. Mahal, Kumbakonam as per Hindu Rites and Customs in the presence of well wishers of both families and thereafter they were living together. After 9 months of marriage, the respondent has left the petitioner's house by demanding a nuclear family stating that she did not want his parents to live with them. As the petitioner-husband was put to great shock, he was requesting the respondent-wife to continue in the matrimonial home, but the respondent-wife refused. However, the petitioner-husband has accepted to locate a nuclear family. But when this decision was informed to the respondent-wife she has also further put some restriction that his aged parents to be sent out from his house and kept in a rental house which was unjustifiable. As the respondent-wife was behaved under the influence of her father, who is an

influential person in Kumbakonam also a politically influential and a sound person in the locality. The respondent's father also started scolding the petitioner's aged parents through phone calls after hearing daughter's frivolous stories. However, after sometime on 05.08.2018 and 07.08.2018 the respondent-wife also visited the matrimonial home by hearing the news that the petitioner-husband underwent a minor Laparoscopy surgery and the respondent-wife stayed with him and also promised that she would come back soon and take care of him.

4. But all of a sudden, the respondent-wife filed HMOP.No.178 of 2019 before the learned Additional Sub Court, Kumbakonam seeking divorce on the ground of cruelty. Notice was served on the petitioner and he was also attended the Court at Kumbakonam. As the respondent-wife has been working in HCL Technologies Limited and staying in Chennai only which she was also admitted in her divorce petition stating that she is working at K7 Computing Private Limited and only on the advise of her father filed HMOP.No.178 of 2019 at Kumbakonam. The petitioner-husband and the respondent-wife both are working in Chennai and conveniently participating in the Mediation Centre at Chennai and the petitioner-husband has filed this present transfer civil miscellaneous petition seeking transfer of HMOP No.178 of 2019 from the learned Additional Sub Court, Kumbakonam to the Family Court at Chennai to sort out the issues.

5. Learned counsel appearing for the petitioner also stated that even after filing of the divorce petition, the respondent-wife has been sending messages through cell phone calling upon the petitioner-husband to meet her and they were going to different places and continuing the relationship as husband and wife. But only because of the intervention of the respondent's father, they are unable to get reunited. It was fairly contended by the learned counsel that considering the peculiar circumstances, the matter was referred to the mediation and directed both the parties to appear before the Mediation and Conciliation Centre attached to this Court. Accordingly, they have been participating in the mediation. Therefore, if the divorce petition HMOP.No.178 of 2019 pending on the file of the learned Additional Sub Court, Kumbakonam is transferred to the learned Family Court, Chennai, the Mediation and Conciliation proceedings already started before the Mediation Centre attached to this Court will be settled amicably. Therefore, the matter may be transferred to the learned Family Court, Chennai.

6. A detailed counter affidavit has been filed by the respondent.

7. Learned counsel for the respondent would submit that at the time of filing both HMOP.No.178 of 2019 on the file of the

Additional Sub Court, Kumbakonam seeking divorce on the ground of cruelty and also on the date of filing transfer civil miscellaneous petition, the respondent-wife was working at K7 Computing Private Limited at Chennai by staying in one of the women's hostel and now she is not working.

8. But, this Court is unable to find any evidence to show that the respondent-wife is not working, when the counsel for appearing for the petitioner has stated that the respondent-wife has been working from home. Due to Covid-19 pandemic situation, most of the IT companies are allowing the employees/officers to work from home on condition that after Covid-19 pandemic situation they should come back to work physically in their respective offices. No such additional affidavit has been filed by the learned counsel for the respondent denying the fact that respondent-wife has abandoned the job from Chennai. Even assuming that the respondent-wife has abandoned the job, the mediation process is also continuing in Chennai. That apart, when the learned counsel appearing for the petitioner has stated that even after filing the divorce petition they were in relationship, the said statement has not been denied by the learned counsel for the respondent.

9. Therefore, considering the fact that both of them are working in Chennai and the mediation process initiated at the Mediation and Conciliation Centre attached to this Court and also proceeding as on today and both the parties have appeared more than 5 times before the Mediation and Conciliation Centre attached to this Court transferring the HMOP.No.178 of 2019 from Kumbakonam to Chennai, will not disturb and damage the mediation process.

10. Therefore, HMOP.No.178 of 2019 pending on the file of the learned Additional Sub Court, Kumbakonam is withdrawn and transferred to the Family Court, Chennai and both the parties are directed to appear before the Mediation and Conciliation Centre attached to this Court as they have already taken part more than 5 times and the Mediator is directed to take up the matter and resolve the disputes between the parties expeditiously.

11. With the above observation and direction, the transfer civil miscellaneous petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

pam

Sub Assistant Registrar

To

1. The Additional Sub Judge,
Kumbakonam.

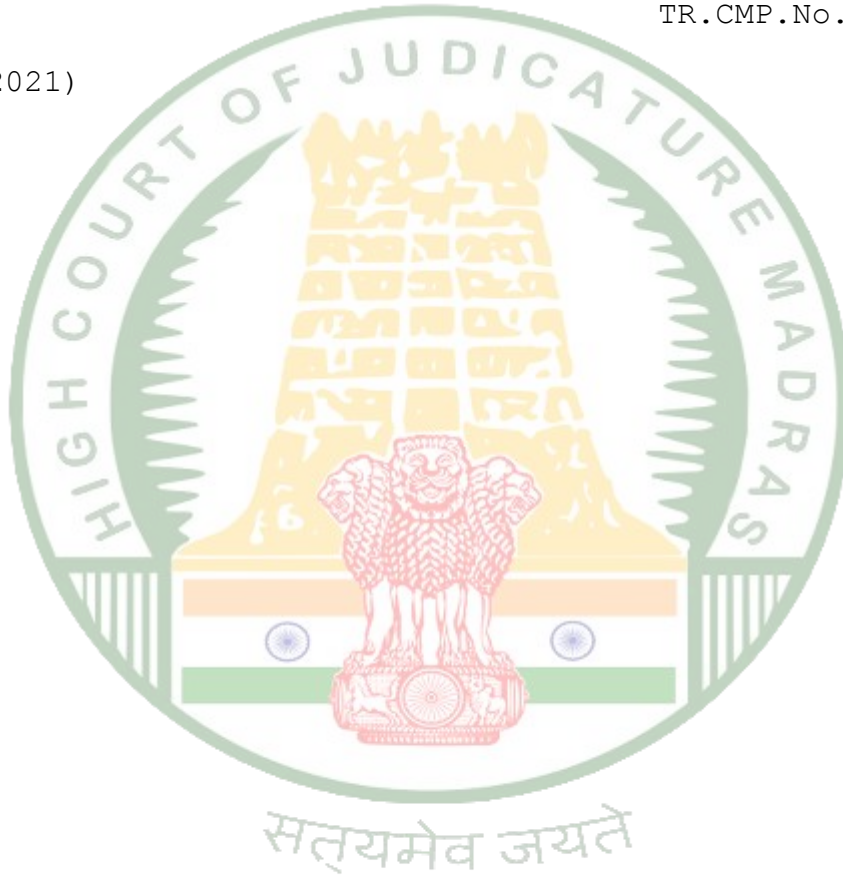
2. The Judge,
Family court, Chennai

+1cc to Mr.C.Samivel, Advocate, S.R.No.39858

+1cc to Mr.A.Muthukumar, Advocate, S.R.No.39955

TR.CMP.No.996 of 2019

br (CO)
rv(08/01/2021)



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